

1       neglecting those requirements is obviously  
2       something else that would be helpful. So anything  
3       that can be done to eliminate that administrative  
4       time that it delays without adding any value would  
5       be very important.

6               MR. HARNETT: I'm going to have to cut off  
7       questions here at this point. Thank you very much  
8       for coming here.

9               I'm sorry. We're going to stick very  
10       hard to our schedule because we've really taxed  
11       our court reporter today with a very long day, and  
12       we still have two speakers to go before the dinner  
13       hour.

14               The next speaker is Brian Urbaszewski of  
15       the American Lung Association in Chicago.

16               MR. URBASZEWSKI: I'll try to be brief. I  
17       realize it's been a very long day for everybody.  
18       A lot of what I would cover has probably already  
19       been touched on by two people who testified  
20       earlier today; namely, Keith Harley and Faith  
21       Bugel. So I'll try and keep it plain.

22               My experience with the Title V program  
23       is relatively brief. I've only been involved in  
24       an effort regarding Title V -- several Title V

1       permits for about a year and a half. I work as  
2       the director of environmental health for the local  
3       lung association affiliate, I work on educational  
4       issues, prevention and treatment of lung disease,  
5       and working to advocate for good policies, good  
6       legislation, both locally and state, federally.

7               But we've become very concerned about  
8       some of the older power plants and what comes out  
9       of them in Illinois and have gotten involved in  
10      using the Title V process to try and drive any  
11      possible cleanup that we can get out of those  
12      sources of air pollution which are leading to our  
13      problems in the greater Chicago area.

14             In general, I think the Title V program  
15      is great. It's very useful in setting up a  
16      process where you consolidate information, you get  
17      a history, you get the requirements for the  
18      facilities that they're supposed to follow, and it  
19      sets up monitoring requirements so the public can  
20      bring them to light for overworked state and  
21      Environmental Protection Agency staff to enforce,  
22      or if necessary do it themselves.

23             Problems lie in the fact that in many  
24      places such as Illinois, the process of actually

1 getting the permits enacted has been kind of long  
2 and torturous at best. As it stands today, many  
3 of the larger sources of pollution in Illinois --  
4 namely, our older coal-fire power plants still --  
5 don't have Title V permits, years after all these  
6 permits were supposed to be done. It's  
7 particularly frustrating that Illinois was one of  
8 the earlier states to get its permit program  
9 approved by U.S. EPA.

10 These are the sources that my  
11 organization has focused its energies on, in the  
12 hope that we can get the greatest public health  
13 benefits, the greatest emissions reductions at a  
14 limited number of facilities, and therefore reap  
15 the greatest, probably, health benefits.

16 However, as you would expect, it's a bit  
17 difficult to judge a program before you've gotten  
18 through the process of actually getting a good  
19 Title V permit and then have the opportunity to  
20 use the permit to see if we can monitor, catch  
21 problems, and promote enforcement. So it's been  
22 sort of a frustrating endeavor for us so far, as  
23 well as some of the smaller local groups who are  
24 concerned with emissions from huge industrial

1 facilities in their neighborhoods that emit  
2 thousands of tons of air pollution every year, and  
3 probably are a little more intimidated by this  
4 type of forum.

5 I think a lot of this has to do with  
6 resource issues. I respect the Illinois EPA, and  
7 I think they're doing a fairly good job. But in  
8 the past they've been trying to do too much with  
9 too little. They didn't have enough permit  
10 engineers to crank through the Title V permits in  
11 the time they were supposed to, and we actually,  
12 with several other environmental groups, had to  
13 threaten to take the issue to the U.S. EPA to try  
14 and get the permit program remanded back to the  
15 federal agency, and that helped us get permit fee  
16 increases raised at the state level.

17 It essentially helped make the case for  
18 the Illinois EPA that, look, if you don't raise --  
19 if the legislature isn't going to raise the permit  
20 fees to cover the program to hire the people we  
21 need to do the work, it's going to go back to the  
22 federal government, and then you won't have any  
23 local control. That worked there.

24 And I know there is an effort going on

1       in Wisconsin where it was even worse than in  
2       Illinois, and U.S. EPA is sort of staying the  
3       course and saying, "Look, you need to have  
4       adequate resources to run the program, to hire the  
5       people to do the work, otherwise you're going to  
6       forfeit -- the state is going to forfeit that  
7       ability to do so." And I hope that they continue  
8       to move that forward so that that permit program  
9       in Wisconsin does get the funds it needs to do the  
10      right work.

11               I'd also like to say that once the  
12      Title V permit fees are actually collected at a  
13      level that are deemed adequate to support the  
14      program, that the funds are actually used there to  
15      run that program, which I have my doubts of in  
16      some states.

17               However, we forge forward in using the  
18      process set up in the Clean Air Act amendments.  
19      We've disagreed on several fronts that the  
20      Illinois EPA regarding what needed to go in a  
21      permit, which I'm sure Keith and Faith -- they  
22      gave you in great detail.

23               One example is our request for more  
24      specific permit language, to be able to determine

1       what is or is not a violation of permit  
2       conditions, language that's vague and says that  
3       the source should use proper maintenance protocols  
4       or reasonable care doesn't define or limit terms  
5       in a way that allow for serious -- that doesn't  
6       define or limit terms in a way that allow serious  
7       violations to occur is essentially utterly useless  
8       to the public. If you can't prove it's a  
9       violation or not, you can't -- you can't do  
10      anything about it.

11               The public needs a clear opportunity to  
12      figure out if a source is or is not complying with  
13      applicable requirements, and U.S. EPA needs to  
14      assure that the states are producing and  
15      finalizing enforceable permits that have these  
16      clear limits, clear distinctions, so that they're  
17      understandable by members of the public.

18               We've also found that U.S. EPA is kind  
19      of lax in responding to the public; shame on them.  
20      We've also -- we've been frustrated by the lack of  
21      action to address the concerns we presented to  
22      Illinois, which were, in our view, largely ignored  
23      and not addressed and not fixed in the permits  
24      Illinois put forward.

1           We then petitioned the administrator and  
2       asked to have our legal concerns addressed in  
3       order to get an enforceable permit, and after not  
4       receiving an answer in the legal time frame, I  
5       think it's 60 days, we gave a -- waited a little  
6       while longer, then give a 60-day notice intent to  
7       sue the administrator, then we waited another  
8       60 days, and this past Monday we were forced to  
9       sue the administrator to get an answer out of him.  
10      We still don't have our Title V permits for those  
11      facilities.

12           This is a failure on U.S. EPA's part in  
13      the truest sense of the word. It really ought to  
14      be embarrassing to the agency. How is the public  
15      supposed to have faith in the process if they're  
16      ignored? I mean, they complained to the state.  
17      The state ignores them. They complain to the  
18      federal government, who's supposed to act as the  
19      referee or umpire in this effort, and they never  
20      get a response. I just find that kind of  
21      mind-boggling.

22           The Title V process has definitely shown  
23      a light on the shortcomings on several Title V  
24      facilities, such as the older power plants. It's

1       allowed us to get more information to figure out  
2       more of what's going on in these facilities. It's  
3       probably also been helpful in making the maze of  
4       regulations and requirements a little more compact  
5       and comprehensive.

6               Ultimately we hope that the Title V  
7       process will result in compliance schedules for  
8       the problems that we've identified, if we ever get  
9       an answer, and that eventually at the end of this  
10      process we'll get something that is a good permit  
11      that ensures that all the provisions are being met  
12      and the public's health is being protected, which  
13      is what the Title V permit is supposed to be.  
14      It's what it's supposed to do.

15             From my advantage point, citizens and  
16      groups interested in permits for Title V sources  
17      in Illinois have taken advantage of the public  
18      participation provisions, and I believe that the  
19      state Environmental Protection Agency, the  
20      Illinois EPA, has been reasonably good in  
21      accommodating these requests and holding these  
22      hearings, and I would leave it there.

23             This is my window into one  
24      organization's efforts to get involved in the



1       system, to try and make the permit better, to work  
2       with others, to craft language that we thought  
3       ought to be in this permit, and this is where we  
4       are now, which is still unfortunately without a  
5       permit.

6                So I'd be happy to try and answer any  
7       questions folks have.

8               MR. HARNETT:  Steve, you can have -- Steve  
9       Hagle.

10              MR. HAGLE:  Thanks.

11              Brian, I've heard a couple of speakers  
12       now say that they've, I assume, responded to the  
13       public notice for permits and have said that they  
14       have not gotten any response from the permitting  
15       agency, and I'm trying to figure out, is that --  
16       is it truly no response, or just what you do not  
17       believe is an adequate response?

18              MR. URBASZEWSKI:  It's not an adequate  
19       response from the state, but from the federal,  
20       nothing.  I mean, we asked them back in -- I  
21       believe it was March.  It may have even been  
22       earlier.  Forgive me if I don't remember the  
23       dates, but it was early this spring that we asked  
24       for a call from U.S. EPA on whether the state was,

1       you know, making the right legal decisions on the  
2       permit, and we've heard nothing from the federal  
3       government.

4               MR. HAGLE:   Okay.

5               MR. HARNETT:   Bernie Paul.

6               MR. PAUL:   Did I understand you correctly to  
7       say that the Title V permit should be the document  
8       that defines the method for determining compliance  
9       with the requirements in the permit?

10              MR. URBASZEWSKI:   It's supposed to provide  
11       enough information so that we know whether a  
12       violation is occurring or not.   And because of the  
13       vague language that's been put in the bill,  
14       whether using appropriate safety protocols or  
15       whatever, I have no idea what that means.   I mean,  
16       I can't tell if they're breaking -- if they're  
17       violating their permit or not.

18              And that's the meat of the issue that we  
19       brought up in discussions with the state.   And  
20       it's just -- it's not clear.   That's the problem.  
21       If it's not clear, you don't know if they're doing  
22       something or not doing something.

23              MR. PAUL:   How do you reconcile that concern  
24       with the credible evidence rule that basically

1       says that there is all kinds of information that  
2       can be used to determine compliance or  
3       noncompliance?

4             MR. URBASZEWSKI:  The question is beyond me.

5             MR. PAUL:  Okay.

6             MR. VAN DER VAART:  Me, too.

7             MR. URBASZEWSKI:  I'd love to answer it if I  
8       could.

9             Again, I don't pretend to offer myself  
10       as an expert on the intricacies of permitting.  
11       All I can offer is the Title V permits had to be  
12       released for these largest sources of pollution in  
13       Illinois, and of course they weren't released  
14       until 2003 for public hearings and stuff, even  
15       though these date back to, like -- some of these  
16       applications date back to places like 1995, and we  
17       thought, well, we should be getting involved in  
18       this and making sure that those permits are as  
19       good as they can possibly be.

20            And I got a lot of help in doing that  
21       from a lot of people with a lot better legal  
22       advice and permit advice, and I could just say  
23       that it's frustratingly slow.  But we do hold the  
24       ultimate hope that the process will play out the

1 way it's laid out in the law, and we'll get  
2 something good at the end.

3 MR. HARNETT: Shannon Broome?

4 MS. BROOME: Two yes or noes.

5 Is the one that you -- the permitting  
6 you're referring to, is it something like operate  
7 in accordance with good air pollution control  
8 provisions for minimizing emissions?

9 MR. URBASZEWSKI: That would be --

10 MS. BROOME: That sounds like it?

11 MR. URBASZEWSKI: Sounds like that.

12 MS. BROOME: All right.

13 And the second one, and I don't mean to  
14 suggest that you should do this, but have you  
15 called anybody at Region 5, or have you --

16 MR. URBASZEWSKI: Yes.

17 MS. BROOME: I thought you might have, but  
18 you shouldn't have to. So I don't want you to  
19 think I'm saying you have to make a phone call,  
20 but I was just wondering if you have.

21 MR. URBASZEWSKI: I haven't been personally  
22 involved, because I have a lot of help on this. I  
23 have people that are helping me shepherd this  
24 through the process because I have never done this

1 before.

2 MS. BROOME: Right. Right.

3 MR. URBASZEWSKI: And they have been in  
4 contact with people at Region 5. What seems to be  
5 going on is that the state is waiting for the feds  
6 to tell them to do something, and the feds are  
7 assuming that the state is doing something;  
8 therefore, nobody does anything. So there seems  
9 to be a definite lack of communication between  
10 state and the federal agencies.

11 One thing I wanted to add to the --  
12 slightly different, but I know Keith told me he  
13 used me as an example for the Fisk Power Plant,  
14 which is only a few miles west and south of here,  
15 just southwest of downtown Chicago, where I found  
16 that it appears there was something like a 55,  
17 \$60 million investment that went into the local  
18 power plant to replace a major piece of the power  
19 plant called a steam chest, which I view as like a  
20 distribution system for steam, so it goes from the  
21 boiler to the turbines. That happened in the  
22 mid-1990s.

23 I found it just by looking on the Web  
24 and finding an engineering firm that was crowing

1       about the great project they had done and  
2       providing all the details of what they replaced  
3       and how long it took and how they put the power  
4       plant -- they did it while it was down for two or  
5       three months.

6               And I thought, well, jeez, that looks  
7       like something that would trigger new source  
8       review, not knowing that much about new source  
9       review, but it passed my personal test, and other  
10      people I talked to who have more engineering  
11      background saying, "Well, yeah, that looks like  
12      that's a major modification. That's not routine.  
13      They're replacing something that's been in the  
14      plant for 45 years."

15             I provided that as part of the  
16      information we provided to the state on that Title  
17      V at the public hearing. No real response on  
18      that. And that kind of worries me.

19             People were talking before about how new  
20      source review issues relate to this, and I would  
21      think that if there is major parts being replaced  
22      at a power plant that allow that power plant to  
23      work harder, longer, last longer, that that  
24      doesn't seem very kosher, and the Title V permit

1 process would be one way to address that.

2 MR. HARNETT: I'm going to use my prerogative  
3 here because I haven't much today.

4 But on this issue, because it's come up  
5 once before, where there is the potential of a  
6 violation of law, but it has not gone the route of  
7 due process yet, is it really appropriate to be  
8 resolving it in the issuance of an operating  
9 permit, which isn't a mechanism for resolving? Is  
10 the allegation you are sort of alleging here, and  
11 the company should have a chance to respond to  
12 it --

13 MR. URBASZEWSKI: Sure.

14 MR. HARNETT: (Continuing) -- shouldn't that  
15 be happening in a separate venue from trying to  
16 get an operating permit out?

17 MR. URBASZEWSKI: Well, it's my understanding  
18 when you get a Title V permit, you are deemed at  
19 that moment to be in compliance with all laws that  
20 affect your facility; correct? Otherwise there  
21 are compliance schedules that are put in the  
22 Title V to address things that aren't quite right;  
23 correct?

24 MR. HARNETT: If I could just put it into a

1 more personal note. If you feel you've been  
2 unfairly given a speeding ticket that would cost  
3 you your driver's license, would you want your  
4 license suspended prior to you getting a chance in  
5 court to make your case?

6 The reason I raise this is there's a  
7 question of just is this an adjudication in the  
8 Title V to prove facts? Is that -- because that's  
9 what the issue at hand is.

10 MR. URBASZEWSKI: I'm not a lawyer, but it  
11 would seem that if you are swearing when you get  
12 your Title V permit that yes, we haven't replaced  
13 any major parts that would trigger NSR, and there  
14 is evidence to the contrary, that the state would  
15 say, "Wait a minute. We have to resolve this, and  
16 we have to figure out whether this is a new source  
17 review violation or not before we give you your  
18 Title V permit."

19 In my view the state said, "We don't  
20 want to deal with it."

21 We're still trying to get an answer out  
22 of the federal government, which we're having to  
23 sue to do so.

24 So I don't know what the real answer is



1 yet. And maybe the courts will compel the  
2 administrator to answer our questions on that.

3 MR. HARNETT: Okay.

4 Verena Owen?

5 MS. OWEN: I'm sorry. I completely forgot  
6 what my question was.

7 MR. HARNETT: That's all right.

8 MS. OWEN: No, it wasn't credible evidence.  
9 But I want to make a comment.

10 First I -- sorry -- I want to thank you,  
11 Brian, and your organization. I think you're kind  
12 of a nontraditional permit review organization,  
13 but I do appreciate all the work you did, and you  
14 obviously think that there is value to this  
15 program, and it will -- that you're concerned with  
16 public health hopefully will increase public  
17 health and welfare.

18 I think maybe you could add a little bit  
19 of all the work you did with Little Village  
20 Environmental Justice Community, with the covering  
21 the Fisk permit, and maybe finish the story what  
22 happened to the Web site with the engineering  
23 firm.

24 MR. URBASZEWSKI: Oh. We work with a lot of

1 smaller groups that are neighborhood-based  
2 organizations basically, some concerned about  
3 their local power plant or their local refinery or  
4 whatever. And I honestly don't have a lot of  
5 resources. I have myself, and I'm trying to cover  
6 what's going on legislative and policy-wise,  
7 regulation-wise at the state, local, and national  
8 level. I don't have a lot of time to get into the  
9 guts of Title V permits, which is often what you  
10 have to do. But I would really like to see more  
11 local organizations realize that they can do this,  
12 because a lot of them don't. A lot of them, they  
13 just don't know where to go.

14 I think there needs to be some better  
15 outreach there, say, for Title V trainings. What  
16 does it actually mean? What is a Title V permit?  
17 What can it do? Why should I go to a training?

18 If you can get the word out to folks  
19 that, you know, this is useful information that  
20 will allow you to keep tabs on your own local  
21 sources of pollution, that has great attraction to  
22 a lot of folks.

23 As far as the information that I  
24 provided to the state, you can't find it on the

1 Web anymore. The company -- mysteriously  
2 disappeared from the company's Web site, which  
3 makes me all the more suspicious that something is  
4 fishy there. If it wasn't a problem, why did it  
5 disappear? I leave that for what it is.

6 MR. HARNETT: All right. Thank you very  
7 much.

8 MR. URBASZEWSKI: Thank you for letting me  
9 have the time.

10 MR. HARNETT: Then the last speaker for this  
11 session will be Maureen Headington of Stand Up and  
12 Save Lives.

13 MS. HEADINGTON: I thank you for hearing me,  
14 knowing especially that you've been working such a  
15 long day.

16 I had attempted to be a sign-on. As it  
17 turned out, I'm a walk-in, but I'm very grateful  
18 that you're giving me this opportunity.

19 You've probably not heard of my  
20 organization, Stand Up/Save Lives. I'm the only  
21 person in it actually, but I'm a grass-root  
22 activist and former veteran of the Chicago Public  
23 Schools inner city for 20 years. My work in  
24 environmental areas began with a move to the